



# MPA Maine Press Association

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July 6, 2012

VIA E-MAIL

Mr. Jonathan Wayne  
Executive Director  
State of Maine  
Commission on Governmental Ethics and Election Practices  
135 State House Station  
Augusta, ME 04333

**Re: Maine Press Association Comments on June 1, 2012 Revised Rule  
Interpreting Press Exception**

Dear Jonathan:

The Maine Press Association provides these comments on the revised rule interpreting the “press exception” in Chapter 1, Section 7, sub-section 10 of the Rules of the Commission on Governmental Ethics and Election Practices (“Ethics Commission”), provided in the Ethics Commission’s June 1, 2012 Invitation to Comment. Please consider these comments as supplemental to the comments filed with the Commission on March 12, 2102 and May 11, 2102. The MPA, representing the state’s newspaper industry, consists of the majority of the weekly and daily papers across the state.

The Invitation to Comment from the Ethics Commission requests comments on three aspects of the rule:

- (1) If a broadcast station or publication were owned by a candidate or an immediate family member of the candidate, should the costs of news stories or editorials be exempt if they relate to election races other than the one in which the candidate-owner is running?
- (2) Should the Commission adopt a rule similar to the attached Federal Election Commission (“FEC”) rule that the costs of bona fide news stories are exempt if they are part of a pattern of campaign-related news accounts that provides reasonably equal coverage to all candidates in the race?
- (3) Can the Commission’s rule interpret the statutory phrase “broadcast station” to exempt cable television operators, programmers and producers (as the FEC has)?

Taking these questions out-of-order, the MPA strongly supports Question 2 (and new rule sub-§10(c)(i)) and reaffirms its position that the Ethics Commission closely follow the FEC’s rules and

guidance on these issues. As long as an entity produces “bona fide” journalism regarding a candidate or candidates as part of a regular periodic pattern of journalism, it should be exempt from the prohibition on being owned or controlled by the immediate family member of a candidate.

Next, Question 1 (and new rule sub-§10(c)(ii)) is not necessary in nearly all instances where Question 2 (new rule sub-§10(c)(i)) applies, which makes an exemption for races other than the one in which the candidate-owner is running redundant. However, the MPA does maintain that the “cost of commentary and editorials about other candidates who are not in the same race as the candidate” [who owns or whose family owns the publication] should not be an expenditure for purposes of campaign finance law.

Finally, as noted above, the MPA strongly supports following the FEC guidance and, therefore, interpreting the statutory phrase, “broadcast station,” to include cable television operators, programmers, and producers within the press exception.

As we stated in our May 11, 2012 letter, the MPA believes that the language of the proposed rule does not prohibit certain online and offline publishing activities that are protected under the federal law and the First Amendment. These activities include express advocacy and programming that may be biased or balanced. Even coordination between a press entity and a candidate or political party has been determined by the FEC to be irrelevant in determining whether the press exception applies. *See* Federal Register, Vol. 71, No. 70, p. 18609, April 12, 2006.

Therefore, the MPA supports the Ethics Commission newly revised rule in Chapter 1, Section 7, subsection 10. Thank you for the opportunity once again to provide comments on these proposed Ethics Commission rule amendments.

Sincerely,

/s/

Michael J. Dowd,  
Editor-in-Chief, Bangor Daily News  
President, Maine Press Association